

NOT PRECEDENTIAL

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-2336

ALLYSON WALLACE,

Appellant

v.

UNITED PARCEL SERVICE

On Appeal From the United States District Court
For the District of New Jersey
(D.C. Civ. No. 02-cv-01685)
District Judge: Joseph A. Greenaway, Jr.

Submitted Under Third Circuit LAR 34.1(a)
September 26, 2007

Before: SLOVITER, MCKEE and AMBRO, Circuit Judges

(Filed October 15, 2007)

OPINION

PER CURIAM

Pro se appellant, Allyson Wallace, appeals from the District Court's entry of judgment in favor of appellee United Postal Service, Inc. ("UPS"), after a jury unanimously found no cause of action in her suit brought pursuant to Title VII of the

Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. We will affirm.

Wallace, an African-American woman, worked for UPS from 1999 until 2001. After being hired as a bagger at UPS's facility in Secaucus, New Jersey, UPS found that Wallace exhibited some performance and disciplinary problems, and was ultimately placed on notice of discharge for "walking off the job" in April of 2001. Shortly after receiving her discharge notice, Wallace filed a complaint with the Secaucus Police Department alleging that she had been subjected to harassment at the UPS facility. Over the course of the following two months, Wallace submitted four forged doctor's notes to her UPS supervisors, three of which pertained to absences from work and a fourth note authorizing a return to "light" duty. Wallace's employment with UPS was terminated on June 13, 2001.

After obtaining a right to sue letter from the Equal Employment Opportunity Commission ("EEOC"), Wallace filed the underlying complaint with the United States District Court for the District of New Jersey. Wallace alleged that UPS: (1) committed Title VII violations by: a) terminating her employment on account of her race, color, national origin and gender; b) failing to promote her on account of her race and gender; c) terminating her in retaliation for her complaints of discrimination; and d) subjecting her to a hostile work environment based on her race and gender; (2) violated her constitutional rights under the Thirteenth, Fourteenth and Fifteenth Amendments; and (3) committed violations of 42 U.S.C. §§ 1983, 1985 and 1986.

Counsel was appointed to represent Wallace and the court set the deadline for dispositive motions for September 23, 2005. At the close of discovery, UPS filed a motion for summary judgment pursuant to Fed. R. Civ. P. 56. In a Memorandum Opinion and Order entered on June 29, 2006, the District Court granted that motion with respect to all claims save Wallace's claim of hostile work environment.

The District Court concluded that under the burden-shifting test established by the Supreme Court in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), Wallace failed to offer any evidence to undermine UPS's legitimate nondiscriminatory explanation for terminating her employment on account of her submission of the forged notes. With respect to the failure to promote claim, the District Court determined that Wallace failed to present any evidence that an available position existed, that she qualified for such a position, that she applied and was rejected for the position, and that UPS continued to seek applicants for the position. The District Court likewise concluded that Wallace failed to submit evidence from which the court could infer the existence of a causal connection between her termination and the filing of a complaint with the Secaucus Police Department or the lodging of internal complaints at UPS. The District Court noted that, in addition to the fact that Wallace received the notice of discharge from UPS prior to her filing a harassment complaint with the police, the circumstances of her discharge included her admitted acts of forging numerous doctor's notes and submitting them to her employer.

The District Court determined that Wallace did, however, submit evidence to show

the existence of a genuine issue of fact for trial on her hostile work environment claim given her testimony at deposition that she was called racially and gender-specific derogatory names on numerous occasions and given the deposition testimony of other UPS employees who heard the racial slur used at UPS on other occasions. Finally, the District Court noted Wallace's express non-opposition to UPS's summary judgment request on her claims asserted under §§ 1983, 1985 and 1986, as well as her claims under the Thirteenth, Fourteenth and Fifteenth Amendments. Accordingly, the District Court awarded summary judgment in favor of UPS on every claim in the complaint except for the claim of a hostile work environment which was set for trial.

The District Court subsequently entertained oral argument on the parties' *in limine* motions to bar certain evidence and a jury trial commenced on April 11, 2007. The jury returned a verdict on April 27, 2007, finding no cause of action against UPS. The District Court entered judgment on the jury verdict on April 30, 2007, and this timely appeal followed.

We have jurisdiction over this appeal pursuant to 28 U.S.C. § 1291. Even under the most liberal reading of her informal brief, Wallace fails to set forth any argument warranting a decision to overturn the jury's verdict finding no cause of action with respect to her hostile work environment claim. Wallace does little more than simply set forth a conclusory statement alleging that the District Court "dismantled this matter" by barring the introduction at trial of evidence related to her summarily dismissed claims and her work-related injuries. We can find no error on the part of the District Court, however, in

barring the introduction of evidence related to the discrimination claims which it had previously concluded lacked sufficient evidentiary support and which had no particular relevance to Wallace's hostile work environment claim. See Narin v. Lower Merion School District, 206 F.3d 323, 334 (3d Cir. 2000); Walden v. Georgia-Pacific Corp., 126 F.3d 506, 517 (3d Cir.1997). Additionally, as UPS points out, Wallace was permitted to provide testimony at trial regarding her alleged workplace injuries. As for the exclusion of evidence related to any of Wallace's "civil and constitutional" claims, Wallace's attorney specifically indicated that UPS's motion for summary disposition of these claims was not being opposed. See Opposition to UPS's Motion for Summary Judgment at 2 n.1. Wallace can not now be heard to complain that evidence of these claims should have been presented at trial.

Wallace's reference to the "all white jury" which decided her case warrants no discussion as there was no jury-related challenge raised in the District Court and the statement in her informal brief is not supported by any argument whatsoever. Likewise, we will not review the issues listed in Wallace's notice of appeal as those issues are not addressed in her appellate brief. See Skretvedt v. E.I. DuPont De Nemours, 372 F.3d 193, 202-03 (3d Cir. 2004) (an issue that is not discussed in the brief is waived).

For the foregoing reasons, we will affirm the District Court's entry of judgment in favor of appellee UPS.